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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,074	04/23/2001	Gerhard Coufal	2001-0462A	9813

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EXAMINER	
BALASUBRAMANIAN, VENKATARAMAN	
ART UNIT	**PAPER NUMBER**
1624	21

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/830,074	COUFAL, GERHARD	
	Examiner	Art Unit	
	Venkataraman Balasubramanian	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *19* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Applicants' response filed on 9/16/2003 and a supplemental response filed on 10/28/2003, are made of record.

Claims 15-26 are pending.

Information Disclosure Statement

Reference cited in the Information Disclosure Statement (Paper # 19) is made of record

In view of applicants' response, the following apply

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-17, 19-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by CN 1171102.

The patent document CN 1171102 teaches a same process for melamine wherein the cooling step is same as claimed in the instant claims.

See English translation disclosed in the First Action of the Patent Office of Republic of China. Note for each claims reasons for lack of novelty is clearly discussed as the limitations taught are same as that claimed in the instant claims.

Claims 15-17 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kokubo et al. US 3,637,686 for reasons of record. Note this rejection is

same as made in the previous office action except that the newly added claims 15-17 and 19-21 are rejected herein.

Applicants' traversal to overcome this rejection is persuasive. Applicants argue that Kokubo teaches two-step cooling process wherein the first step leads to solidification of melamine and the solidified melamine is then treated with aqueous ammonia. Although column 2, line 7 of Kokubo lends support for this traversal, column 2, line 63 suggests molten melamine is treated with aqueous ammonia.

However, in view of the ambiguity, this rejection is **deemed as obviated** as far as anticipation requirement of 102 rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over CN 1171102.

Teachings of the patent document CN 1171102 as discussed inn the above 102 rejection is incorporated herein. As noted above, CN 1171102 teaches a similar process as in instant process.

Instant claims 18, 24, and 25 differ from the Patent CN 1171102 in requiring use of ammonia solution for recycling and heat recovery.

However, such process steps are known in the prior art as discussed in the instant specification pages 1-3. See Elvers et al., pages 176-179 for various industrial processes wherein recycling of ammonia, heat exchange and scrubbing of the off-gasses are taught.

Hence, one having ordinary skill in the art at the time of the invention was made would have been motivated to combine the primary with prior art know-how and employ the process for producing pure melamine including recycling and recovery of heat and expect to obtain melamine of desired purity because he would have expected the analogous reaction conditions provide product of similar purity. It has been held that application of an old process to an analogous material to obtain a result consistent with the teachings of the art would have been obvious to one having ordinary skill.

The following three rejections made in the previous office action are maintained:

Claims 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubo et al. US 3,637,686 in view of Elvers et al. Ullmann's Encyclopedia of Industrial Chemistry, 5th Edition, vol A16, 174-179, 1978 for reasons of record.

Claims 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canzi et al. US 5,721,363 in view of Van Hardeveld US 4,408,046 for reasons of record.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canzi et al. US 5,721,363 in view of in view of Manes US 3,386,999.

Applicants' arguments with additional supporting material are persuasive but these additional evidences should be presented in the form of a declaration to accord proper legal weight.

Note arguments of counsel alone cannot take the place of evidence in the record once an examiner has advanced a reasonable basis for questioning the disclosure. See In re Budnick, 537 F.2d at 538,190 USPQ at 424; In re Schulze, 346 F.2d 600, 145 USPQ 716 (CCPA 1965); In re Cole, 326 F.2d 769, 140 USPQ 230 (CCPA 1964). For example, in a case where the record consisted substantially of arguments and opinions of applicant's attorney, the court indicated that factual affidavits could have provided important evidence on the issue of enablement. See In re Knowlton, 500 F.2d at 572, 183 USPQ at 37; In re Wiseman, 596 F.2d 1019, 201 USPQ 658 (CCPA 1979).

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 9/16/2003 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (703) 305-1674. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is Mukund Shah whose telephone number is (703) 308-4716.

The fax phone number for the organization where this application or proceeding is assigned (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

V. Balasubramanian
Venkataraman Balasubramanian

01/09/2004